

**MINUTES FOR THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

August 20, 2003

DIVISION ONE

Court convened at 9:00 a.m.

Present: Spencer, P.J., Ortega, J., Vogel (Miriam A.), J., Mallano, J. and D. Nolan,
Deputy Clerk.

Each of the following:

B142962 Colmenares v. Braemer County Club, Inc.
B151369 Estate of Gaiser
B157109 Dromy v. Siegel
B158638 Marriage of Bearden
B160611 Johnson v. Lewis
B161453 Green et al. v. Granoff et al.
B165585 In re Glenda G./DCFS v. Quentin S.
B165646 Consumer Cause v. National Vision, Inc.

Argument waived, cause submitted.

Mallano, J. leaves the bench.

B167889 Douglas Shooker Partnership Evaluation Corp.
 v.
 Superior Court, Los Angeles County
 (Gary Winnick, Pacific Capital Group, r.p.i.)

Merits:

Argued by Marshall B. Grossman for real parties in interest and by Don
Howarth for petitioner. Cause submitted.

Mallano, J. returns to the bench.

DIVISION ONE (Continued)

B152480 Asmath Noor
 v.
 Suhale Noor

Merits:
Argued by Michael Becker for appellant and by Jeffrey W. Doeringer for respondent. Cause submitted.

B160566 David Goldman
 v.
 Jason Cohen

Merits:
Argued by Mario D. Vega for appellant. Counsel for respondent waived. Cause submitted.

Ortega, J. leaves the bench.

B161171 Alfred Collins
 v.
 Brown Fletcher & Associates, et al.

Merits:
Argued by Tracy Wei-Costantino for appellant and by Shenne J. Hahn for respondent. Cause submitted.

Ortega, J. returns to the bench.

B162404 Lisa Borten
 v.
 Patrica J. Lard

Merits:
Argued by Rosario Perry for appellant and by Andrew M. Zanger for respondent. Cause submitted.

Mallano, J. leaves the bench.

DIVISION ONE (Continued)

B161391 Yeon Ji, et al.
 v.
 City of Los Angeles

Merits:
Argued by Jay R. Stein for appellants and by Kenneth T. Fong, Deputy City Attorney for respondent. Cause submitted.

B161778 Sargon Lazarof, et al.
 v.
 The Hertz Corporation

Merits:
Argued by Jay S. Bloom for appellants and by James A. Busalacchi Jr. for respondent. Cause submitted.

Mallano, J. returns to the bench.

B155044 Sid M. Safieslamy
 v.
 Zachary D. Wechlser

Merits:
Argued by Sid M. Safieslamy, appellant in propria persona and by Zachary D. Wechsler, Deputy Attorney General for respondents. Cause submitted.

Spencer, P.J. leaves the bench.

B155749 Sid M.G. Sharif
 v.
 Wilmington Community Clinic

Merits:
Argued by Sid Sharif appellant in propria persona and by Joseph Andrews for respondent. The court grants Mr. Sharif's request to submit his oral argument in writing. The respondent is given one week to submit his response in writing. In open court Appellant's request to file exhibits is denied. Submission is deferred.

Court adjourned.

August 20, 2003 (Continued)

DIVISION TWO

B159292 People (Not for Publication)
v.
Elizarraraz

The judgment is affirmed.

Doi Todd, J.

We concur: Boren, P.J.
Ashmann-Gerst, J.

[illegible]

The sentence and restitution order are reversed and the matter remanded for resentencing and redetermination of the restitution award. On remand the case shall be assigned by the presiding judge to a different judge for sentencing and a restitution order. (Code Civ. Proc., § 170.1, subd. (c).) The judgment is otherwise affirmed.

Ashmann-Gerst, J.

We concur: Boren, P.J.
 Nott, J.

B162221 People (Not for Publication)
v.
Valdez

The judgment is affirmed.

Boren, P.J.

We concur: Nott, J.
Ashmann-Gerst, J.

August 20, 2003 (Continued)

DIVISION TWO (Continued)

B144486 Schultz (Not for Publication)
v.
Miller et al.

The judgments in favor of respondents are affirmed. The motion of respondents Stern, Neubauer, Greenwald & Pauly and Mark Neubauer to dismiss the appeal is denied. Appellant is ordered to bear respondents' costs of appeal.

Doi Todd, J.

We concur: Boren, P.J.
 Nott, J.

B159853 Santa Clarita Organization for Planning, et al. (Not for Publication)
v.
County of Los Angeles
Lennar Corporation

We find that substantial evidence supported the Board's determination that the proposed revisions to Phase III of the Stevenson Ranch project did not create either new or enhanced significant environmental impacts requiring the preparation of a supplemental or subsequent EIR. The judgment is affirmed. Lennar to recover costs on appeal.

Doi Todd, J.

We concur: Boren, P.J.
 Nott, J.

B158104 Woodard (Not for Publication)
v.
National Parkinson's Foundation

The judgment is affirmed.

Ashmann-Gerst, J.

We concur: Boren, P.J.
 Doi Todd, J.

DIVISION TWO (Continued)

B161322 County of Los Angeles (Not for Publication)
v.
Granite State Insurance Co.

The judgment is affirmed. Respondent(s) to recover costs.

Doi Todd, J.

We concur: Boren, P.J.
Nott, J.

B159548 China M & E Company, LTD. (Not for Publication)
v.
Qu

The judgment is affirmed. China and Guo shall recover their costs on appeal.

Ashmann-Gerst, J.

We concur: Boren, P.J.
Nott, J.

DIVISION THREE

B156006 Glenn Hightower
v.
Daniel O'Dowd

Filed order denying petition for rehearing.

DIVISION FOUR

B158881 People (Not for Publication)
v.
Gonzalez

The trial court is directed to modify the abstract of judgment to reflect that appellant is entitled to 403 days of credit. In all other respects, the judgment is affirmed.

Epstein, J.

We concur: Vogel (C.S.), P.J.
Curry, J.

DIVISION FIVE

B157983 People (Certified for Partial Publication)
v.
Kevin Gilbeaux

The judgment is modified by staying the 25-year-to-life sentence on Count 8 (assault with a firearm on Lopez) pursuant to Penal Code section 654. The sentence is stayed pending the completion of the sentence on count 6 (robbery of Lopez) and then permanently stayed. The aggregate sentence is thereby reduced to 220 years to life. As modified, the judgment is affirmed.

Grignon, J.

I concur:	Turner, P.J.
I dissent and concur:	Mosk, J. (Opinion)

August 20, 2003 (Continued)

DIVISION FIVE (Continued)

B166313 People (Not for Publication)
v.
Steven Bamboyani

The abstract of judgment must be modified to reflect defendant received 115 days of presentence credits which includes 38 days conduct credit. As modified, the judgment is affirmed.

Turner, P.J.

We concur: Grignon, J.
Mosk, J.

DIVISION SIX

[illegible]

The judgment is affirmed.

Yegan, J.

We concur: Gilbert, P.J.
 Coffee, J.

B161656 People (Not for Publication)
v.
Plotner

The judgment is affirmed.

Perren, J.

We concur: Yegan, Acting P.J.
Coffee, J.

August 20, 2003 (Continued)

DIVISION SIX (Continued)

B165105 Funfstuck (Not for Publication)
v.
Scott, et al.

The judgment is affirmed. The Scotts are awarded their costs on appeal.

Perren, J.

We concur: Gilbert, P.J.
 Coffee, J.

B159425 Doe, et al. (Not for Publication)
v.
Ventura County Sheriff's Department

The judgment on the pleadings is affirmed. The order sanctioning counsel is reversed, and the matter is remanded to the trial court. The trial court is directed to enter a new sanctions order in accordance with Code of civil Procedure section 177.5, or, in the alternative, vacate the imposition of sanctions. Costs on appeal are awarded to respondent.

Yegan, J.

We concur: Gilbert, P.J.
 Coffee, J.

B163135 Dodart (Not for Publication)
v.
Stone, et al.

The judgment is affirmed. Costs on appeal are awarded to Dodart. In addition, Dodart is awarded reasonable attorney's fees on appeal, in an amount to be determined on noticed motion in the trial court.

Coffee, J.

We concur: Gilbert, P.J.
 Yegan, J.

August 20, 2003 (Continued)

DIVISION SIX (Continued)

B160382 People
v.
Prieto

Filed order denying petition for rehearing.

B155948 People
v.
Estrada, et al.

Filed order granting petition for rehearing.

DIVISION SEVEN

B161559 People (Not for Publication)
v.
Juan G.

The order under review is modified as follows: The words "maintain B average" are ordered stricken from condition number 40 of the conditions of probation of the juvenile court's minute order dated September 11, 2002. In all other respects, the order is affirmed.

Johnson, J.

We concur: Perluss, P.J.
Woods, J.

B163795 People (Certified for Publication)
v.
Hodgson

The abstract of judgment is ordered corrected to reflect 723, rather than 721, actual days of presentence custody credit. The clerk of the superior court is directed to prepare a corrected abstract of judgment and to forward it to the Department of Corrections. The judgment is affirmed in all other respects.

Johnson, J.

We concur: Perluss, P.J.
Munoz, J. (Assigned)

DIVISION SEVEN (Continued)

B159413 Cziraki (Certified for Partial Publication)
v.
Thunder Cats, Inc.

The order is reversed as to the application of the common fund and substantial benefit doctrines, and the cause is remanded to the trial court for a determination of a reasonable attorney fees award, consistent with the views expressed in this opinion. Each party is to bear his/its own costs on appeal.

Johnson, Acting P.J.

We concur: Woods, J.
Munoz, J. (Assigned)

B157517 Finney (Certified for Publication)
v.
Gomez

The judgment is reversed and the cause remanded to the trial court with directions to enter a new judgment for Finney in the amount of \$20,645. Gomez is awarded his cost on appeal.

Johnson, J.

We concur: Perluss, P.J.
Woods, J.

B156694 Marigny (Not for Publication)
v.
Mercury Air Center

The judgment in favor of defendant is reversed as to the causes of action for racial discrimination, racial harassment, negligent failure to prevent and remedy racial harassment and as to punitive damages and costs. The judgment in favor of plaintiff on the cause of action for intentional infliction of emotional distress is affirmed as to liability and reversed as to damages and the cause is remanded to the trial court with directions to award plaintiff a new trial on the issues of compensatory and punitive damages. In all other respects the judgment is affirmed. Plaintiff is awarded his costs on appeal.

Johnson, J.

We concur: Perluss, P.J.
Munoz, J. (Assigned)